



STATE REPRESENTATIVE

DON PRIDEMORE

TESTIMONY BY REPRESENTATIVE DON PRIDEMORE

"MEDICAL LIABILITY REFORM ACT"

ASSEMBLY BILL 224

SENATE COMMITTEE ON JUDICIARY, CORRECTIONS, AND HOUSING

DECEMBER 4, 2007

I would like to thank the Chair, Senator Taylor for giving my bill a hearing today and all the committee members for giving Assembly Bill 224 your attention as well.

Assembly Bill 224 began last session when a constituent of mine contacted my office with problems he was having in the aftermath of the death of his beloved wife. His wife had struggled for over a year with complications resulting from what he considered negligent actions taken by a surgeon. After his wife's death, my constituent met roadblock after roadblock when he attempted to get to the bottom of the alleged medical malpractice that occurred leading up to the passing of his wife. He did not pursue legal action for monetary gain; all he wanted to do was make sure this did not happen to anyone else.

Some of the roadblocks he met were:

- Health care workers not wanting to come forward and report unprofessional conduct because of the fear they may face civil reprisal by the accused hospital or employee and;
- The medical malpractice claims cases were and still are delayed for years due to roadblocks put in front of our state's investigating agency.

Assembly Bill 224 aims to tear down these roadblocks and will get unprofessional physicians out of our hospitals sooner so they do not injure anyone else. To do so, this bill would encourage health care employees who witness unprofessional conduct to come forward without fear of civil penalties. Currently, only physicians who come forward and report unprofessional conduct are protected from civil reprisal by the accused. **What this bill would do is protect all health care employees who in good faith report and/or testify on any violation of rule, law or regulation regarding medical malpractice or negligence from civil damages pursued by the accused party.**

Assembly Bill 224 was amended to expedite investigations and alleviate any confusion on behalf of the investigating agency. The Department of Regulation and Licensing can answer questions regarding this amendment if committee members have any.

This bill was also amended to protect patients from hospital employees who bounce from hospital to hospital because of unprofessional conduct when that information is unavailable to hospitals at the time of hiring. The necessity of this portion of the bill is discussed in the submitted hospital association testimony and in materials distributed to committee members yesterday.

I strongly urge you to approve this bill. It will expedite medical malpractice investigations, get unprofessional employees out of our hospitals so they cannot injure anyone else, and give families peace of mind if one of their family members was injured while in a hospital's care. This bill has no state fiscal effect and it is supported by the State Bar of Wisconsin, the Wisconsin State Employees Union, Dean Health Systems and SMS Health Care of Wisconsin (St. Mary's). Thank you for your time and I would be happy to answer any questions you may have.

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WISCONSIN HOSPITAL ASSOCIATION, INC.



December 4, 2007

To: Members of the Senate Judiciary Committee
Senator Lena Taylor - Chair

From: Paul Merline – Vice President, Government Relations

Re: Support for Assembly Bill 224

The Wisconsin Hospital Association (WHA) asks for your support of Assembly Bill (AB) 224 which adds to current immunity protections for good faith reporting of possible law or standard of care violations in health care.

WHA supports this proposal as a way to improve and enhance Wisconsin's already nationally recognized high levels of patient safety and quality of care by encouraging the reporting of violations.

Current law prohibits a health care facility or health care provider from taking or threatening to take disciplinary action against an employee of the facility or provider who, in good faith, reports a possible law or standard of care violation to specified individuals or entities. AB 224 expands these protections to provide immunity from civil or criminal liability for the same reporting.

AB 224 includes an amendment that adds immunity protections for reporting information to any prospective employer of an employee or former employee of a health care provider or facility information relating to allegations of violations.

Unfortunately, there have been instances where patients have been put at risk by individuals who have repeatedly violated clinical or ethical standards. By allowing the sharing of that information with prospective employers, without the fear of liability, patients will be protected and quality of care will be improved.

AB 224 unanimously passed the Assembly Judiciary Committee, and as amended, passed the full Assembly on a voice vote. We respectfully request that you encourage enhancements to Wisconsin's already high levels of patient safety and health care quality by voting in favor of AB 224.

Thank you for your consideration.

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Aide Accused Of Fondling Patient

The Capital Times :: METRO :: 2B

Thursday, March 31, 2005

By Mike Miller The Capital Times

A nursing assistant at St. Marys Hospital was charged Wednesday with one count of sexual assault for allegedly fondling a woman patient.

Michael M. Reveles, 44, of Madison, is charged with second-degree sexual assault in a treatment facility, a crime that carries a maximum penalty of 40 years in prison.

According to court records, Reveles was fired as a nursing assistant at UW Hospital in 2001 for having inappropriate contact with two patients and disclosing confidential patient information. But St. Marys was not aware of that when it hired Reveles in 2002.

In the latest case, which occurred March 19, Reveles asked a woman patient if she wanted a back rub and the patient said yes. But after rubbing her back, Reveles began touching the sides of her breasts, then pulled down the woman's underpants and began rubbing her buttocks.

When the woman told him she did not want to be rubbed in that manner, the complaint says Reveles told her, "I'll rub it for you anyway because it will feel good."

Reveles reached under her hospital gown and rubbed the woman's breasts and touched her genitals, the complaint says.

When a nurse walked into the room, Reveles stopped what he was doing and "acted if nothing had happened," the complaint says. The nurse could not see what he was doing because he had pulled a screen around the patient's bed, the complaint says.

The patient went to a lounge area, but began to cry and told the nurse what had happened, the complaint says. "I don't want him to come in anymore," the patient told the nurse, referring to Reveles, who was ordered to leave the hospital.

Reveles was released on a signature bond and ordered to have no contact with the patient and to stay away from St. Marys while the case is pending.

St. Marys officials said they apologized to the patient.

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*Relates directly
to AA4 of
AB 224.*

Department of Regulation and Licensing Testimony Senate Committee on Judiciary, Corrections and Housing

December 4, 2007

I would like to thank the Committee Chair and the members of the Committee for giving the Department of Regulation and Licensing (DRL) an opportunity to comment on the proposed AB 224, especially on the portion applicable to the DRL, AA2. I am Atty. Supervisor Michael Berndt. The Department believes that the proposed amendment would further strengthen the bill and help the bill to accomplish its goals.

The proposed amendment would address a concern that has existed in the Department's Division of Enforcement (DOE) for some time over patient identifying information and the current inability for complainants to share this information with our Department.

The original version of AB 224 allows the disclosure of some information but does not authorize the disclosure of more specific information such as the identity of the patient and the disorder being treated. Under the current law the DOE receives complaints that inform us that a credential holder is engaging in unethical behavior or conduct below professional standards of care but we cannot receive the identity of the patient. When this happens the DOE must use the provisions of § 146.82(2) to obtain a large number of records in the hope of identifying the one patient about which the complaint is made. This provision allows our agency to obtain records without patient consent. While this sounds like it is already a powerful tool, its usefulness is severely limited if we do not have a specific patient name.

AB 224, as amended, would allow the complainant to provide the patient name and other information. As a result, the DOE would be able to focus the investigation right from the start and gather only those patient records that are relevant. The benefits would include fewer patient records being disclosed, less time needed by investigators to locate the correct records and less impact on the providers and facilities that must respond to our record requests.

The Department recognizes the importance of patient confidentiality and therefore is also supportive of the safeguard provision contained in the amendment. The amendment would require the receiving agency, whether DRL or another state agency, to maintain confidentiality of the identifying information unless and until a patient consent is received.

In summary, we believe that AB 224, as amended, and would address a long-standing Department concern. This proposed amendment is consistent with the goals of AB 224 and the overarching goals of public protection both from professional misconduct and from potential loss of privacy. Thank you.